

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Thomas Juliano	Team: Squad #12	CCRB Case #: 201703477	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Wednesday, 05/03/2017 5:20 PM	Location of Incident: DeKalb Avenue and Carlton Avenue	Precinct: 88	18 Mo. SOL 11/3/2018	EO SOL 11/3/2018	
Date/Time CV Reported Wed, 05/03/2017 6:19 PM	CV Reported At: Precinct	How CV Reported: In-person	Date/Time Received at CCRB Thu, 05/04/2017 9:26 AM		

Complainant/Victim	Type	Home Address

Witness(es)	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Richard Light	12410	936957	088 PCT
2. POM David Gordon	14716	941840	088 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Richard Light	Discourtesy: Police Officer Richard Light acted discourteously toward § 87(2)(b)	
B.POM Richard Light	Discourtesy: Police Officer Richard Light spoke discourteously to § 87(2)(b)	
C.POM David Gordon	Abuse: Police Officer David Gordon issued a summons to § 87(2)(b)	
D.POM David Gordon	Discourtesy: Police Officer David Gordon acted discourteously toward § 87(2)(b)	
E.POM David Gordon	Abuse: Police Officer David Gordon refused to provide his shield number to § 87(2)(b)	
F.POM Richard Light	Abuse: Police Officer Richard Light refused to provide his shield number to § 87(2)(b)	

Case Summary

On May 3, 2017, § 87(2)(b) filed this complaint at the 88th Precinct stationhouse. On May 4, 2017, the complaint was received at the CCRB.

On May 3, 2017, at approximately 5:20 p.m., § 87(2)(b) was driving on Dekalb Avenue with his friend, § 87(2)(b). While driving, § 87(2)(b) was pulled over for running a red light. PO Light and PO Gordon approached his car and requested his documentations. § 87(2)(b) provided the information, along with a Detectives' Endowment Association (DEA) card. The officers then went back to their car. The officers returned and PO Light gave § 87(2)(b) back his information without a summons and left. § 87(2)(b) noticed that PO Light had punched a hole into the DEA card (**Allegation A**). § 87(2)(b) exited his car and asked why PO Light punched a hole into the DEA card. PO Light told § 87(2)(b) "So my buddies know that you're driving like a dickhead" (**Allegation B**). § 87(2)(b) asked PO Gordon if this was how PO Light spoke to civilians, and PO Gordon told § 87(2)(b) not to go anywhere. § 87(2)(b) requested a supervisor and reentered his car.

PO Gordon approached § 87(2)(b)'s car and asked § 87(2)(b) for his information again. § 87(2)(b) provided his license, but refused to provide any other information until a supervisor arrived. PO Gordon then returned and threw five summonses and § 87(2)(b)'s license into the car (**Allegation C and D**). PO Gordon walked back to the patrol car. § 87(2)(b) then exited his car and requested the officer's shield numbers. Both PO Gordon and PO Light ignored the request (**Allegation E and F**).

There are no video recordings of this incident.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate this complaint.
- On August 2, 2017, an inquiry was filed with the New York City Comptroller's Office to locate a notice of claim for § 87(2)(b). Results are pending (**Board Review 1**).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

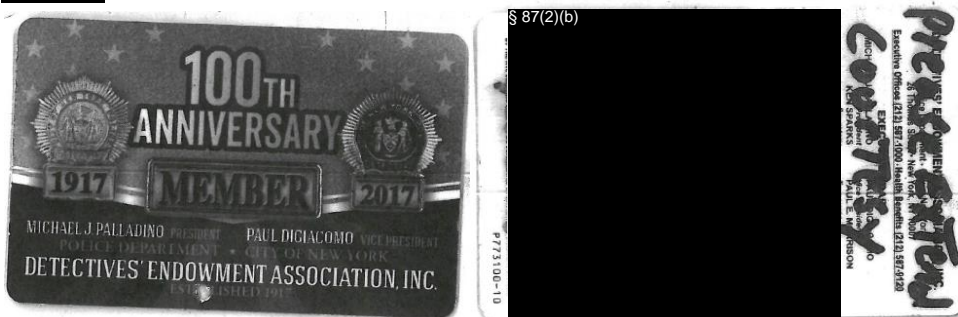
- This is the first complaint to which § 87(2)(b) has been a party (**Board Review 3**).
- PO Light has been a member of the NYPD for twelve years. § 87(2)(b)
- PO Gordon has been a member of the NYPD for ten years. PO Gordon has one prior complaint which was closed as complainant uncooperative. § 87(2)(g)

Allegations Not Pled: § 87(2)(g)

Findings and Recommendations

Allegation A –Discourtesy: Police Officer Richard Light acted discourteously toward § 87(2)(b)

Allegation B –Discourtesy: Police Officer Richard Light spoke discourteously to § 87(2)(b)



It is undisputed that PO Light punched a hole in § 87(2)(b)'s PBA card.

§ 87(2)(b) stated that after being stopped for running a red light by PO Light and PO Gordon, that he provided his driver's license, registration, insurance, and a PBA card to PO Light. PO Light then returned the documents without a summons. PO Gordon and PO Light then entered their patrol car and began to leave. § 87(2)(b) noticed that there was a hole put into his PBA card, and exited his car to ask PO Light why there was a hole in his PBA card. PO Light allegedly responded, "So my buddies know that you're driving like a dickhead" (**Board Review 4 and 5**).

§ 87(2)(b) Gonzales stated that when § 87(2)(b) asked PO Light why he put a hole into the PBA card, that PO Light responded, "So other cops know you're being an asshole on the street" (**Board Review 6**).

PO Light stated that he and PO Gordon pulled over § 87(2)(b) for running a red light. PO Light requested § 87(2)(b)'s documentation, which he provided along with a PBA card. PO Light decided to extend a courtesy to § 87(2)(b) and not issue him a summons. PO Light put a hole into § 87(2)(b)'s card using a pocket knife. The purpose of the hole was to let other officers know that § 87(2)(b) committed a traffic violation, but was let off with a courtesy. PO Light stated that officers with less tenure than himself would likely not know of this practice, but that officers used to carry hole-punchers on them for this purpose. PO Light did not make the statement, "So my buddies know that you're driving like a dickhead," nor did he use any profanity when speaking with § 87(2)(b) (**Board Review 7**).

PO Gordon stated that he observed PO Light punched a hole into § 87(2)(b)'s PBA card. PO Light explained to PO Gordon that the hole was to indicate to other officers that § 87(2)(b) did commit a traffic infraction, and was expecting courtesy on a regular basis. PO Light was the first officer to tell him about the practice, and PO Gordon was unaware of this practice. PO Gordon did not recall PO Light stating, "So my buddies know you're driving like a dickhead" (**Board Review 8**).

PO Light's and § 87(2)(b)'s statements about the incident nearly coincide, the only exception being that PO Light denied the allegation of using the word "dickhead." § 87(2)(g)

§ 87(2)(g)

Patrol Guide Procedure 203-09 states that officers must be courteous and respectful (**Board Review 12**).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Allegation C –Abuse of Authority: Police Officer David Gordon issued a summons to § 87(2)(b)

It is undisputed that PO Gordon issued § 87(2)(b) a summons for running a red light, two window tint summonses, a summons for failure to provide insurance, and a summons for disorderly conduct. It is undisputed that § 87(2)(b) exited his car to ask PO1 about the hole punched into his PBA card. The disorderly conduct summons has been dismissed (**Board Review 14**).

After § 87(2)(b) asked PO Light why he punched a hole into the PBA card, PO Gordon told § 87(2)(b) "Now you're not going anywhere." PO Gordon exited the police car alone and re-requested § 87(2)(b)'s documents. § 87(2)(b) provided his license, but refused to provide any other documents until a supervisor came onto the scene. § 87(2)(b) stayed in the car and waited for a supervisor. At one point, § 87(2)(b) exited the car and sat on the front of it as it was hot inside of the car. PO Light told § 87(2)(b) to enter the car, which she then did. A supervisor never came to the scene (**Board Review 4**).

§ 87(2)(b) stated that § 87(2)(b) was not yelling and was talking in a normal voice. There were not any people watching the interaction (**Board Review 6**).

The disorderly conduct summons prepared by PO Gordon states, "§ 87(2)(a) 160.50

§ 87(2)(b)

(**Board Review 9**).

PO Gordon stated that his initial intention when pulling § 87(2)(b) over was to issue a summons for running a red light. After PO Light received the PBA card, he decided to extend courtesy to § 87(2)(b) and let him go without a summons. The officers then began to leave. After § 87(2)(b) realized that PO Light put a hole into the PBA card, § 87(2)(b) became

irate and was cursing at the officers. PO Gordon told PO Light, “Hold on,” and decided to take back the courtesy that they initially gave. PO Gordon re-approached § 87(2)(b) s car and re-obtained § 87(2)(b) s license, registration, and insurance. While PO Gordon was issuing summonses, § 87(2)(b) and § 87(2)(b) exited their car, approached the police car, and were making comments and cursing. § 87(2)(b) did not enter the lane of traffic or impede the flow of traffic. PO Gordon did not recall if § 87(2)(b) was yelling, but stated that he could hear him through the open window while § 87(2)(b) was standing near the police car. There were no other people around and the interaction was limited between PO Gordon, PO Light, § 87(2)(b) and § 87(2)(b). PO Gordon and PO Light told them to get back into the car; however, they ignored the request. PO Gordon issued § 87(2)(b) a summons for disorderly conduct because § 87(2)(b) was cursing at the officers and refused to get back into his car when told to do so. It was solely PO Gordon’s decision to issue § 87(2)(b) the summonses. PO Gordon initially stated that he charged § 87(2)(b) with subsection 20 of the 240.20 penal law; however, after reviewing the penal law PO Gordon stated that § 87(2)(b) was in violation of subsection 2 by making unreasonable noise and 3 by cursing at the officers (**Board Review 8**).

PO Light corroborated PO Gordon’s statement with the following exceptions. PO Light did not intend on summoning § 87(2)(b) after the interaction regarding the PBA Card and that it was PO Gordon’s decision to summons § 87(2)(b). PO Light alone ordered § 87(2)(b) and § 87(2)(b) to get back into the car, which they initially refused to do, but ultimately did after having a conversation with PO Light (**Board Review 7**).

New York State Penal Law, Section 240.20(2) A person is guilty of disorderly conduct when, with intent to cause public inconvenience, annoyance or alarm, or recklessly creating a risk thereof, (2) makes unreasonable noise, (3) in a public place uses abusive or obscene language or makes an obscene gesture (**Board Review 10**).

People v. Baker, 20 N.Y.3d 354 (2013) The mere use of coarse language toward a police officer is not enough, alone, to constitute the public harm element required for disorderly conduct. An isolated verbal exchange between an individual and a police officer, without any other aggressive action or extenuating circumstances, is not likely to constitute disorderly conduct. Likewise, the mere presence of spectators, without any indication that these spectators are likely to become involved in the dispute, is not enough to constitute disorderly conduct (**Board Review 11**) (see also *People v. Tichenor*, 89 N.Y. 3d 769 (1997), **Board Review 13**).

§ 87(2)(g)
[REDACTED]

Allegation D –Discourtesy: Police Officer David Gordon acted discourteously toward § 87(2)(b)

§ 87(2)(b) and § 87(2)(b) alleged that PO Gordon threw the five summonses and § 87(2)(b)'s license into the car (**Board Review 4 and 6**).

PO Gordon stated that § 87(2)(b) took the documents from PO Gordon. PO Gordon did not recall throwing the documents into § 87(2)(b)'s car (**Board Review 7**).

PO Light approached § 87(2)(b)'s car from the passenger side, and did not see if PO Gordon handed the documents to § 87(2)(b) or if he threw them (**Board Review 8**).

§ 87(2)(g)

Allegation E –Abuse of Authority: Police Officer David Gordon refused to provide his shield number to § 87(2)(b)

Allegation F –Abuse of Authority: Police Officer Richard Light refused to provide his shield number to § 87(2)(b)

§ 87(2)(b) stated that after receiving the summonses, that he exited his car and asked for the officer's shield numbers. Neither officer responded (**Board Review 4**).

§ 87(2)(b) stated that at some point § 87(2)(b) requested the officer's name, and that the officers ignored the request (**Board Review 6**).

PO Light did not recall § 87(2)(b) requesting either his or his partner's shield number (**Board Review 8**).

PO Gordon stated that he did not recall if § 87(2)(b) requested his shield number, and that if he did he would have provided it (**Board Review 7**).

§ 87(2)(g)

Squad: 12

Investigator: _____
Signature

Thomas Juliano
Print

August 7, 2017
Date

Squad Leader: _____
Signature

Nicholas Carayannis
Title/Print

August 7, 2017
Date

